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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,963	07/24/2003	Rainer Opolka	22579	1609

535 7590 10/18/2005

THE FIRM OF KARL F ROSS
5676 RIVERDALE AVENUE
PO BOX 900
RIVERDALE (BRONX), NY 10471-0900

EXAMINER

TSIDULKO, MARK

ART UNIT PAPER NUMBER

2875

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/625,963	OPOLKA, RAINER	
	Examiner	Art Unit	
	Mark Tsidulko	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-15,17-20 is/are allowed.
- 6) ☒ Claim(s) 1-11 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The submission of amendment filed on 9/08/2005 is acknowledged. At this point claims 9, 12, 17 have been amended and the remaining claims left unchanged. Thus, claims 1-20 are at issue in the instant application.

Claim Objections

Claims 17 is objected to because of the following informalities: claim indication “(Original)” (line 1) should be changed to “(Currently Amended)”. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-11, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winther (US 6,511,203) in view of McLean (US 4,658,534).

Referring to Claim 1 Winther discloses (Figs. 1, 2) a lighting device including an elongated shaft [12], a lamp head [32] affixed to one end of the shaft and having a light sources

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[48] and an elongated foot member [54] at an opposite end of the shaft having an elongated spike adapted to be inserted into the ground.

Winther discloses the instant claimed invention except for that the foot member is reversible and has an impact tool capable for rupturing a glass.

McLean discloses (Figs.2, 3) a foot member [16] having a spike [18] at one end and a tool [20] at the second end which can be used for rupturing a glass. Using the threads [22], the foot member [16] may be inserted into a holder [12] with any end ([18] or [22]) being inside of the holder. With this structure each end of the member [16] may be used depending on necessity and the spike end [18] can be enclosed in the holder [12] in order to prevent a contact with a user.

Referring to Claims 2, 3 Winther discloses a plurality of LEDs [48].

Referring to Claims 4, 5 Winther discloses (Fig.1) a spike having apex angle, but does not disclose a second end being conical.

It would have been an obvious matter of design choice to provide any desired form of the ends of the foot member depending on necessity.

Referring to Claim 6 it is clearly understood from Figs.2 and 3) that using the threads [14] and [22] the member [16] may be inserted into the holder [12] (with the end [18] in) deep enough to obtain the flush connection.

Referring to Claim 8 Winther discloses the instant claimed invention except for a threaded portion.

McLean discloses (Figs.2, 3) a threaded connection between a foot member [16] and a shaft [12].

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Referring to Claims 9, 10 Winther discloses (Fig.2) a connection replaceable securing a lamp head [32] on the shaft [12]. It is understood that any type of connection well known in the art, including a threaded may used for connection between the lamp head and the shaft.

Referring to Claim 11 Winther discloses (Fig.3) a plate [40], a plurality of LEDs mounted on the plate and a spiral contact springs resiliently engageable with the batteries [30].

Referring to Claim 16 Winther discloses (Fig.2) that the shaft has an compartment dimensioned to receive the spike and a battery holder [18].

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the foot member of McLean for the device of Winther in order improve the tool and increase the safety of using.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winther and McLean as applied to claim 6 above, and further in view of Rohrmoser et al. (US 6,162,002).

Winther et al. disclose the instant claimed invention except for friction fit.

Rohrmoser et al. disclose a friction fit between the spike [1] and shaft [4] what allow to simplify connection by eliminating the threads, as shown by McLean.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the friction fit, as taught by Rohrmoser et al., for the device of Winther et al., in order to simplify the device.

Allowable Subject Matter

Claims 12-15, 17-20 are allowed.

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The following is an examiner's statement of reasons for allowance:

Referring to Claims 12, 17 the prior art of record fails to show a bar-shaped lamp having a cap for receiving an impact tool and threaded onto the foot member.

Claims 13-15 are objected as claims depended on claim 12.

Claims 18-20 are objected as claims depended on claim 17.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed 9/08/2005 have been fully considered but they are not persuasive.

Applicant argues that McLean reference is a fishing pole holder having nothing to do with a lamp and therefore can not be used as a reference.

In response, the only threaded portion of the foot member, making the foot member reversible, was used for the rejection. Since Winther discloses a lamp having a foot member, it is absolutely obvious to provide this member having same threaded part, as has McLean's foot member, in order to obtain its reversibility.

Also, in response to applicant's argument that all references do not disclose an impact tool, capable of rupturing a vehicle window, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in

order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.T.

October 6, 2005



JOHN ANTHONY WARD
PRIMARY EXAMINER